IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 20537 of 2006(T)

PETITIONER:

MRS.OMANA ASHOKAN, MANAGING PARTNER,
THE LANDMARK (A UNIT OF HOTEL HILL TOP),
NEAR JAWAHARLAL NEHRU STADIUM, KALOOR,
ERNAKULAM, KOCHI-682 017.

BY ADV. SRI.V.GIRI

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY**
   SECRETARY, TAXES (A) DEPARTMENT,
   GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE EXCISE COMMISSIONER,**
   COMMISSIONERATE OF EXCISE, THIRUVANANTHAPURAM.

3. **THE ASST.EXCISE COMMISSIONER,**
   ERNAKULAM.

4. **THE CIRCLE INSPECTOR OF EXCISE,**
   ERNAKULAM.

BY GOVERNMENT PLEADER SMT. K.R. DEEPA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.20537/2006 T

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1; COPY OF THE APPLICATION DTD. 14/10/2005 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT THROUGH THE 4TH RESPONDENT.

EXT.P2: COPY OF THE LEASE AGREEMENT DTD. 15/07/2005 EXECUTED BETWEEN THE PETITIONER AND ONE T.K.SAJEEVAN.

EXT.P3; COPY OF THE ORDER DTD. 30/03/2006 PASSED BY THE 1ST RESPONDENT.

EXT.P4; COPY OF THE ORDER DTD. 15/12/2005 IN SLP(CIVIL) NO. 25060/2005 PASSED BY THE HON'BLE SUPREME COURT.

EXT.P5; COPY OF THE SAID COMMUNICATION DTD. 5/08/2006 FROM THE GOVERNMENT.

2ND RESPONDENT'S EXHIBIT:

EXT.R2(A); COPY OF GOVT.LETTER NO.9993/A1/06/TD/ DTD. 5/08/2006.

/TRUE COPY/

KSS

KURIAN JOSEPH J.

W.P.(C) No.20537 of 2006

Dated 13th July, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers :-

> (i) "Declare that the petitioner is entitled to get an FL-3 licence in pursuance to Ext.P3 order of the first respondent.
>
> (ii) Issue a writ of mandamus or other appropriate writ, order or direction commanding the 2nd respondent to pass consequential orders and to issue licence in pursuance to Ext.P3 order of the 1st respondent."

According to the petitioner, the Government had originally taken a decision to grant the licence as can be seen from Ext.P3. However, it was subsequently decided not to grant the licence as per Ext.P5, in view of the case pending before the Supreme Court involving the husband of the petitioner regarding his liability to pay the abkari dues. Petitioner submits that she is prepared to furnish an indemnity bond undertaking to clear the liability, if any, of her husband, subject to the outcome of the matter pending before the Supreme Court and for that reason, licence may not be refused to the petitioner. Since the issue regarding the liability caused by the husband of the petitioner is thus taken care of, and that being the only reason why Ext.P3 is not

implemented, I set aside Ext.P5. There will be a direction to the first respondent to take appropriate action in accordance with law and in the light of Ext.P3 and also the submission made by the petitioner, within a period of six weeks from the date of furnishing of the indemnity bond along with a copy of this judgment.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO. OF 200

J U D G M E N T

Dated 13th July, 2007.